

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Food Handling Regulation Enforcement Act is  
5 amended by changing Section 4 as follows:

6 (410 ILCS 625/4)

7 Sec. 4. Cottage food operation.

8 (a) For the purpose of this Section:

9 "Acidify" means to reduce the potential of hydrogen of a  
10 food to 4.6 or lower by means of pickling, fermenting, or  
11 adding an acidic ingredient, such as vinegar, citric acid, or  
12 citrus juice.

13 "Canned food" means food processed and preserved in a new  
14 glass jar or bottle that has been sealed with a new lid by  
15 means of heat or pressure.

16 "Cottage food operation" means an operation conducted by a  
17 person who produces or packages food or drink, other than foods  
18 and drinks listed as prohibited in paragraph (1.5) of  
19 subsection (b) of this Section, in a kitchen located in that  
20 person's primary domestic residence or another appropriately  
21 designed and equipped residential or commercial-style kitchen  
22 on that property for direct sale by the owner, a family member,  
23 or employee.

1       "Cut leafy greens" means fresh leafy greens whose leaves  
2 have been cut, shredded, sliced, chopped, or torn. "Cut leafy  
3 greens" does not mean cut to harvest leafy greens.

4       "Department" means the Department of Public Health.

5       "Farmers' market" means a common facility or area where  
6 farmers gather to sell a variety of fresh fruits and vegetables  
7 and other locally produced farm and food products directly to  
8 consumers.

9       "Leafy greens" includes iceberg lettuce; romaine lettuce;  
10 leaf lettuce; butter lettuce; baby leaf lettuce, such as  
11 immature lettuce or leafy greens; escarole; endive; spring mix;  
12 spinach; cabbage; kale; arugula; and chard. "Leafy greens" does  
13 not include microgreens or herbs such as cilantro or parsley.

14       "Main ingredient" means an agricultural product that is the  
15 defining or distinctive ingredient in a cottage food product,  
16 though not necessarily by predominance of weight.

17       "Microgreen" means an edible plant seedling grown in soil  
18 or substrate and harvested above the soil or substrate line.

19       "Potentially hazardous food" means a food that is  
20 potentially hazardous according to the Department's  
21 administrative rules. Potentially hazardous food (PHF) in  
22 general means a food that requires time and temperature control  
23 for safety (TCS) to limit pathogenic microorganism growth or  
24 toxin formation.

25       "Sprout" means any seedling intended for human consumption  
26 that was produced in a manner that does not meet the definition

1 of microgreen.

2 (b) Notwithstanding any other provision of law and except  
3 as provided in subsections (c), (d), and (e) of this Section,  
4 neither the Department nor the Department of Agriculture nor  
5 the health department of a unit of local government may  
6 regulate the transaction of food or drink by a cottage food  
7 operation providing that all of the following conditions are  
8 met:

9 (1) (Blank).

10 (1.5) A cottage food operation may produce homemade  
11 food and drink. However, a cottage food operation, unless  
12 properly licensed, certified, and compliant with all  
13 requirements to sell a listed food item under the laws and  
14 regulations pertinent to that food item, shall not sell or  
15 offer to sell the following food items or processed foods  
16 containing the following food items, except as indicated:

17 (A) meat, poultry, fish, seafood, or shellfish;

18 (B) dairy, except as an ingredient in a  
19 non-potentially hazardous baked good or candy, such as  
20 caramel;

21 (C) eggs, except as an ingredient in a  
22 non-potentially hazardous baked good or in dry  
23 noodles;

24 (D) pumpkin pies, sweet potato pies, cheesecakes,  
25 custard pies, creme pies, and pastries with  
26 potentially hazardous fillings or toppings;

1 (E) raw garlic in oil or oil infused with raw  
2 garlic, except if the raw garlic oil is acidified;

3 (F) canned foods, except for the following, which  
4 may be canned only in new jars or bottles with new  
5 lids:

6 (i) fruit jams, fruit jellies, fruit  
7 preserves, or fruit butters;

8 (ii) syrups;

9 (iii) whole or cut fruit canned in syrup; and

10 (iv) acidified fruit or vegetables prepared  
11 and offered for sale in compliance with paragraph  
12 (1.6); and

13 (v) condiments such as prepared mustard,  
14 horseradish, or ketchup that do not contain  
15 ingredients prohibited under this Section and that  
16 are prepared and offered for sale in compliance  
17 with paragraph (1.6);

18 (G) sprouts;

19 (H) cut leafy greens, except for cut leafy greens  
20 that are dehydrated, acidified, or blanched and  
21 frozen;

22 (I) cut or pureed fresh tomato or melon;

23 (J) dehydrated tomato or melon;

24 (K) frozen cut melon;

25 (L) wild-harvested, non-cultivated mushrooms; or

26 (M) alcoholic beverages, except when trace amounts

1 of alcohol are incidentally present in a beverage, such  
2 as kombucha, that is commonly sold without age  
3 restriction.

4 (1.6) In order to sell canned tomatoes or a canned  
5 product containing tomatoes, a cottage food operator shall  
6 either:

7 (A) follow exactly a recipe that has been tested by  
8 the United States Department of Agriculture or by a  
9 state cooperative extension located in this State or  
10 any other state in the United States; or

11 (B) submit the recipe, at the cottage food  
12 operator's expense, to a commercial laboratory to test  
13 that the product has been adequately acidified; use  
14 only the varietal or proportionate varietals of tomato  
15 included in the tested recipe for all subsequent  
16 batches of such recipe; and provide documentation of  
17 the test results of the recipe submitted under this  
18 subparagraph to an inspector upon request during any  
19 inspection authorized by paragraph (2) of subsection  
20 (d).

21 (1.7) A State-certified local public health department  
22 that regulates the service of food by a cottage food  
23 operation in accordance with subsection (d) of this Section  
24 may require a cottage food operation to submit a recipe for  
25 any baked good containing cheese, at the cottage food  
26 operator's expense, to a commercial laboratory to verify

1       that it is non-potentially hazardous before allowing the  
2       cottage food operation to sell the baked good as a cottage  
3       food.

4           (2) The food is to be sold at a farmers' market, with  
5       the exception that cottage foods that have a locally grown  
6       agricultural product as the main ingredient may be sold on  
7       the farm where the agricultural product is grown or  
8       delivered directly to the consumer.

9           (3) (Blank).

10          (4) The food packaging conforms to the labeling  
11       requirements of the Illinois Food, Drug and Cosmetic Act  
12       and includes the following information on the label of each  
13       of its products:

14           (A) the name and address of the cottage food  
15       operation;

16           (B) the common or usual name of the food product;

17           (C) all ingredients of the food product, including  
18       any colors, artificial flavors, and preservatives,  
19       listed in descending order by predominance of weight  
20       shown with common or usual names;

21           (D) the following phrase: "This product was  
22       produced in a home kitchen not subject to public health  
23       inspection that may also process common food  
24       allergens.";

25           (E) the date the product was processed; and

26           (F) allergen labeling as specified in federal

1 labeling requirements.

2 (5) The name and residence of the person preparing and  
3 selling products as a cottage food operation is registered  
4 with the health department of a unit of local government  
5 where the cottage food operation resides. No fees shall be  
6 charged for registration. Registration shall be for a  
7 minimum period of one year.

8 (6) The person preparing or packaging products as a  
9 cottage food operation has a Department approved Food  
10 Service Sanitation Management Certificate.

11 (7) At the point of sale a placard is displayed in a  
12 prominent location that states the following: "This  
13 product was produced in a home kitchen not subject to  
14 public health inspection that may also process common food  
15 allergens."

16 (c) Notwithstanding the provisions of subsection (b) of  
17 this Section, if the Department or the health department of a  
18 unit of local government has received a consumer complaint or  
19 has reason to believe that an imminent health hazard exists or  
20 that a cottage food operation's product has been found to be  
21 misbranded, adulterated, or not in compliance with the  
22 exception for cottage food operations pursuant to this Section,  
23 then it may invoke cessation of sales of cottage food products  
24 until it deems that the situation has been addressed to the  
25 satisfaction of the Department.

26 (d) Notwithstanding the provisions of subsection (b) of

1 this Section, a State-certified local public health department  
2 may, upon providing a written statement to the Department,  
3 regulate the service of food by a cottage food operation. The  
4 regulation by a State-certified local public health department  
5 may include all of the following requirements:

6 (1) That the cottage food operation (A) register with  
7 the State-certified local public health department, which  
8 shall be for a minimum of one year and include a reasonable  
9 fee set by the State-certified local public health  
10 department that is no greater than \$25 notwithstanding  
11 paragraph (5) of subsection (b) of this Section and (B)  
12 agree in writing at the time of registration to grant  
13 access to the State-certified local public health  
14 department to conduct an inspection of the cottage food  
15 operation's primary domestic residence in the event of a  
16 consumer complaint or foodborne illness outbreak.

17 (2) That in the event of a consumer complaint or  
18 foodborne illness outbreak the State-certified local  
19 public health department is allowed to (A) inspect the  
20 premises of the cottage food operation in question and (B)  
21 set a reasonable fee for that inspection.

22 (e) The Department may adopt rules as may be necessary to  
23 implement the provisions of this Section.

24 (Source: P.A. 99-191, eff. 1-1-16; 100-35, eff. 1-1-18.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.